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SENATE BILL 340

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

John T. L. Grubesi c

AN ACT

RELATING TO RETIREMENT; AMENDING THE RETIREE HEALTH CARE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-7C-4 NMSA 1978 (being Laws 1990, Chapter 6, Section 4, as amended) is amended to read:

"10-7C-4. DEFINITIONS. --As used in the Retiree Health Care Act:

A. "active employee" means an employee of a public institution or any other public employer participating in either the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act or an employee of an independent public employer;

B. "affidavit of domestic partnership" means an affidavit that includes the full names of the state employee

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1 and the domestic partner; the date they entered into a domestic
2 partnership and a statement that the two are in a mutually
3 exclusive, intimate and committed relationship, have shared a
4 primary residence for twelve or more consecutive months, are
5 jointly responsible for the common welfare of each other and
6 share financial obligations;

7 ~~[B.]~~ C. "authority" means the retiree health care
8 authority created pursuant to the Retiree Health Care Act;

9 ~~[C.]~~ D. "basic plan of benefits" means only those
10 coverages generally associated with a medical plan of benefits;

11 ~~[D.]~~ E. "board" means the board of the retiree
12 health care authority;

13 ~~[E.]~~ F. "current retiree" means an eligible retiree
14 who is receiving a disability or normal retirement benefit
15 under the Educational Retirement Act, the Public Employees
16 Retirement Act, the Judicial Retirement Act, the Magistrate
17 Retirement Act, the Public Employees Retirement Reciprocity Act
18 or the retirement program of an independent public employer on
19 or before July 1, 1990;

20 G. "domestic partner" means one of two persons who
21 are in a mutually exclusive, intimate and committed
22 relationship and who share a primary residence for twelve or
23 more consecutive months, are jointly responsible for the common
24 welfare of each other and share financial obligations. Each
25 person shall be capable of consenting to be in the domestic

1 partnership and have no blood relationship that would prohibit
2 their marriage under Section 40-1-7 NMSA 1978. Neither person
3 in a domestic partnership may be married to someone else or be
4 a member of another domestic partnership that has not been
5 terminated, dissolved or adjudged a nullity;

6 [F-] H. "eligible dependent" means a person
7 obtaining retiree health care coverage based upon that person's
8 relationship to an eligible retiree as follows:

9 (1) a spouse or domestic partner. An
10 affidavit of domestic partnership may be required;

11 (2) an unmarried child under the age of
12 nineteen who is:

13 (a) a natural child;
14 (b) a legally adopted child;
15 (c) a stepchild living in the same
16 household who is primarily dependent on the eligible retiree
17 for maintenance and support;

18 (d) a child for whom the eligible
19 retiree is the legal guardian and who is primarily dependent on
20 the eligible retiree for maintenance and support, as long as
21 evidence of the guardianship is evidenced in a court order or
22 decree; or

23 (e) a foster child living in the same
24 household;

25 (3) a child described in Subparagraphs (a)

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1 through (e) of Paragraph (2) of this subsection who is between
2 the ages of nineteen and twenty-five and is a full-time student
3 at an accredited educational institution; provided that
4 "full-time student" shall be a student enrolled in and taking
5 twelve or more semester hours or its equivalent contact hours
6 in primary, secondary, undergraduate or vocational school or a
7 student enrolled in and taking nine or more semester hours or
8 its equivalent contact hours in graduate school;

9 (4) a dependent child over nineteen who is
10 wholly dependent on the eligible retiree for maintenance and
11 support and who is incapable of self-sustaining employment by
12 reason of mental retardation or physical handicap; provided
13 that proof of incapacity and dependency shall be provided
14 within thirty-one days after the child reaches the limiting age
15 and at such times thereafter as may be required by the board;

16 (5) a surviving spouse or surviving domestic
17 partner defined as follows:

18 (a) "surviving spouse" or "surviving
19 domestic partner" means the spouse or domestic partner to whom
20 a retiree was married or with whom the deceased lived as a
21 legal domestic partner at the time of death; or

22 (b) "surviving spouse" or "surviving
23 domestic partner" means the spouse to whom a deceased vested
24 active employee was married or with whom the deceased lived as
25 a legal domestic partner at the time of death; or

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1 (6) a surviving dependent child who is the
2 dependent child of a deceased eligible retiree whose other
3 parent is also deceased;

4 [~~G-~~] I. "eligible employer" means either:

5 (1) a "retirement system employer", which
6 means an institution of higher education, a school district or
7 other entity participating in the public school insurance
8 authority, a state agency, state court, magistrate court,
9 municipality, county or public entity, each of which is
10 affiliated under or covered by the Educational Retirement Act,
11 the Public Employees Retirement Act, the Judicial Retirement
12 Act, the Magistrate Retirement Act or the Public Employees
13 Retirement Reciprocity Act; or

14 (2) an "independent public employer", which
15 means a municipality, county or public entity that is not a
16 retirement system employer;

17 [~~H-~~] J. "eligible retiree" means:

18 (1) a "nonsalaried eligible participating
19 entity governing authority member" who is a person who is not a
20 retiree and who:

21 (a) has served without salary as a
22 member of the governing authority of an employer eligible to
23 participate in the benefits of the Retiree Health Care Act and
24 is certified to be such by the executive director of the public
25 school insurance authority;

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1 (b) has maintained group health
2 insurance coverage through that member's governing authority if
3 such group health insurance coverage was available and offered
4 to the member during the member's service as a member of the
5 governing authority; and

6 (c) was participating in the group
7 health insurance program under the Retiree Health Care Act
8 prior to July 1, 1993; or

9 (d) notwithstanding the provisions of
10 Subparagraphs (b) and (c) of this paragraph, is eligible under
11 Subparagraph (a) of this paragraph and has applied before
12 August 1, 1993 to the authority to participate in the program;

13 (2) a "salaried eligible participating entity
14 governing authority member" who is a person who is not a
15 retiree and who:

16 (a) has served with salary as a member
17 of the governing authority of an employer eligible to
18 participate in the benefits of the Retiree Health Care Act;

19 (b) has maintained group health
20 insurance through that member's governing authority, if such
21 group health insurance was available and offered to the member
22 during the member's service as a member of the governing
23 authority; and

24 (c) was participating in the group
25 health insurance program under the Retiree Health Care Act

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1 prior to July 1, 1993; or

2 (d) notwithstanding the provisions of
3 Subparagraphs (b) and (c) of this paragraph, is eligible under
4 Subparagraph (a) of this paragraph and has applied before
5 August 1, 1993 to the authority to participate in the program;

6 (3) an "eligible participating retiree" who is
7 a person who:

8 (a) falls within the definition of a
9 retiree, has made contributions to the fund for at least five
10 years prior to retirement and whose eligible employer during
11 that period of time made contributions as a participant in the
12 Retiree Health Care Act on the person's behalf, unless that
13 person retires on or before July 1, 1995, in which event the
14 time period required for employee and employer contributions
15 shall become the period of time between July 1, 1990 and the
16 date of retirement, and who is certified to be a retiree by the
17 educational retirement director, the executive secretary of the
18 public employees retirement board or the governing authority of
19 an independent public employer;

20 (b) falls within the definition of a
21 retiree, retired prior to July 1, 1990 and is certified to be a
22 retiree by the educational retirement director, the executive
23 secretary of the public employees retirement association or the
24 governing authority of an independent public employer; but this
25 paragraph does not include a retiree who was an employee of an

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1 eligible employer who exercised the option not to be a
2 participating employer pursuant to the Retiree Health Care Act
3 and did not after January 1, 1993 elect to become a
4 participating employer; unless the retiree: 1) retired on or
5 before June 30, 1990; and 2) at the time of retirement did not
6 have a retirement health plan or retirement health insurance
7 coverage available from his employer; or

8 (c) is a retiree who: 1) was at the
9 time of retirement an employee of an eligible employer who
10 exercised the option not to be a participating employer
11 pursuant to the Retiree Health Care Act, but which eligible
12 employer subsequently elected after January 1, 1993 to become a
13 participating employer; 2) has made contributions to the fund
14 for at least five years prior to retirement and whose eligible
15 employer during that period of time made contributions as a
16 participant in the Retiree Health Care Act on the person's
17 behalf, unless that person retires less than five years after
18 the date participation begins, in which event the time period
19 required for employee and employer contributions shall become
20 the period of time between the date participation begins and
21 the date of retirement; and 3) is certified to be a retiree by
22 the educational retirement director, the executive director of
23 the public employees retirement board or the governing
24 authority of an independent public employer; or

25 (4) a "legislative member", which means a

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1 person who is not a retiree and who served as a member of the
2 New Mexico legislature for at least two years, but is no longer
3 a member of the legislature and is certified to be such by the
4 legislative council service;

5 ~~[I.]~~ K. "fund" means the retiree health care fund;

6 ~~[J.]~~ L. "group health insurance" means coverage
7 that includes but is not limited to life insurance, accidental
8 death and dismemberment, hospital care and benefits, surgical
9 care and treatment, medical care and treatment, dental care,
10 eye care, obstetrical benefits, prescribed drugs, medicines and
11 prosthetic devices, medicare supplement, medicare carveout,
12 medicare coordination and other benefits, supplies and services
13 through the vehicles of indemnity coverages, health maintenance
14 organizations, preferred provider organizations and other
15 health care delivery systems as provided by the Retiree Health
16 Care Act and other coverages considered by the board to be
17 advisable;

18 ~~[K.]~~ M. "ineligible dependents" include:

19 (1) those dependents created by common law
20 relationships other than a domestic partnership;

21 (2) dependents while in active military
22 service;

23 (3) parents, aunts, uncles, brothers, sisters,
24 grandchildren and other family members left in the care of an
25 eligible retiree without evidence of legal guardianship; and

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1 (4) anyone not specifically referred to as an
2 eligible dependent pursuant to the rules and regulations
3 adopted by the board;

4 [~~L.~~] N. "participating employee" means an employee
5 of a participating employer, which employee has not been
6 expelled from participation in the Retiree Health Care Act
7 pursuant to Section 10-7C-10 NMSA 1978;

8 [~~M.~~] O. "participating employer" means an eligible
9 employer who has satisfied the conditions for participating in
10 the benefits of the Retiree Health Care Act, including the
11 requirements of Subsection M of Section 10-7C-7 NMSA 1978 and
12 Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

13 [~~N.~~] P. "public entity" means a flood control
14 authority, economic development district, council of
15 governments, regional housing authority, conservancy district
16 or other special district or special purpose government; and

17 [~~Q.~~] Q. "retiree" means a person who:

18 (1) is receiving:

19 (a) a disability or normal retirement
20 benefit or survivor's benefit pursuant to the Educational
21 Retirement Act;

22 (b) a disability or normal retirement
23 benefit or survivor's benefit pursuant to the Public Employees
24 Retirement Act, the Judicial Retirement Act, the Magistrate
25 Retirement Act or the Public Employees Retirement Reciprocity

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1 Act; or

2 (c) a disability or normal retirement
3 benefit or survivor's benefit pursuant to the retirement
4 program of an independent public employer to which that
5 employer has made periodic contributions; or

6 (2) is not receiving a survivor's benefit but
7 is the eligible dependent of a person who received a disability
8 or normal retirement benefit pursuant to the Educational
9 Retirement Act, the Public Employees Retirement Act, the
10 Judicial Retirement Act, the Magistrate Retirement Act or the
11 Public Employees Retirement Reciprocity Act. "

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